

**Before the**  
**FEDERAL COMMUNICATIONS COMMISSION**  
**Washington, D.C. 20554**

**In the Matter of**

<b>Petition of the California Public Utilities</b>	)	
<b>Commission for Authority to Implement</b>	)	<b>CC Docket No. 99-200</b>
<b>Technology-Specific Overlays</b>	)	

**COMMENTS**  
**OF**  
**ONSTAR CORPORATION**

OnStar Corporation hereby submits these comments in response to the Commission's Public Notice released October 16, 2003 in the above captioned matter.

**Background**

OnStar, a wholly owned subsidiary of General Motors Corporation, provides telematics services to the owners of vehicles manufactured by General Motors (Chevrolet, Pontiac, Oldsmobile, Buick, Cadillac, GMC, Saturn, Hummer and SAAB) and other automotive manufacturers including Volkswagen, Audi (manufactured by Volkswagen), Lexus (manufactured by Toyota), Acura (manufactured by Honda), Subaru and Isuzu. As of

October 2003, OnStar was the largest provider of such services with over 2.0 million subscribers.

OnStar's telematics system combines cellular communications with GPS and is integrated into the electrical architecture of the vehicle. This allows the provision of two broad classes of service: call center-based services (including automatic crash notification (ACN), emergency services, remote diagnostics, stolen vehicle location, remote door unlock, navigation and point of interest routing) and, in more recent generations of OnStar hardware, hands-free, voice activated, prepaid, wireless cellular service. The first year of OnStar service is included in the price of the vehicle, however, as an "opt-in" service, a separate subscriber agreement is required.

### **California's Petition Fails to Comply with Commission Requirements**

In its *Third Report and Order* in this matter the Commission set out criteria to guide states in what showings and information would be required for the Commission to consider a petition for delegation of authority to implement service and technology specific numbering overlays.<sup>1</sup> In its filings, the California Public Utility Commission (CPUC) appears to have not yet provided the rigorous detail required by the Commission. As a consequence, OnStar believes that the Commission should withhold action until the CPUC petition is further amended to provide the information requested by the Commission.

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<sup>1</sup> See *Third Report and Order and Second Order on Reconsideration*, CC Docket No. 96-98 and CC Docket No. 99-200 at Paragraph 81.

### **OnStar's Service Offering Has Expanded To Include OnStar Personal Calling**

The *Second Further Notice of Proposed Rulemaking* dated December 29, 2000, in this matter suggested in Paragraph 142 and footnote 350 that OnStar is only a call center based service. This implication was repeated subsequently.<sup>2</sup> As explained above while true for some earlier generations of hardware design, OnStar's recent hardware designs include the ability to access both call center services and - under the brand name OnStar Personal Calling™ - conventional interconnected wireless calling service.

Currently, OnStar offers customers a choice among three different option packages: Safe and Sound™, Directions and Connections™, and Luxury and Leisure™. All three option packages include OnStar Personal Calling as a standard feature with 30 minutes of included calling good for 2 months after subscribing to OnStar.<sup>3</sup> Using OnStar Personal Calling, subscribers can both make and receive calls.

### **OnStar Personal Calling Complements Traditional CMRS and is Necessarily Geographically Sensitive**

OnStar Personal Calling ("OPC") allows customers to make prepaid, hands-free, voice activated telephone calls as well as receive calls in their vehicles. This resold service offering complements traditional cellular/PCS calling by offering an in-vehicle calling alternative that minimizes driver distraction associated with hand-held phone use. Indeed, it is designed to compete directly with the use of a hand-held phone in the vehicle

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<sup>2</sup> See e.g. Id. at Paragraphs 67- 90.

<sup>3</sup> OnStar Personal Calling is not available in all markets.

environment. OnStar's OPC customers receive geographically based telephone numbers that are associated with the customer's home or business.

As would be expected of a true complement, this service is geographically sensitive. OnStar's experience with our customers bears out customer sensitivity to area code assignments and to locally-rated land-to-mobile calling. For example, customers often request a specific NPA NXX from the pool of available numbers.

The CPUC proposes to permanently assign OnStar to the requested service overlays. OnStar objects to this proposal on the basis that OnStar is a geographically sensitive service. As a geographically sensitive service, OnStar would be disadvantaged in area code procurement for its customers *vis-à-vis* the traditional CMRS phone which OnStar complements in the in-vehicle environment and which it therefore competes against.<sup>4</sup>

OnStar notes that, if treated as a non-geographically sensitive service, it apparently would be required under the CPUC's proposal to take back its customers' current numbers. With respect to the proposed take back authority, OnStar believes the Commission should deny the CPUC's request. Take-backs would impose significant costs in re-provisioning the OnStar transceiver units and customer inconvenience.<sup>5</sup>

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<sup>4</sup> OnStar notes that if it were merely a mobile phone built-into the vehicle it would not be subject to the proposed overlay. OnStar submits that simply because it also provides call center-based telematics services it should not be treated any differently.

<sup>5</sup> Because OnStar is an analog based service take backs using the over the air programming techniques employed by digital formats are not available. As a consequence, over the air provisioning is more difficult and carries a potential risk - if it fails - of compromising the subscriber's access to the basic safety and security services including automatic airbag deployment notification and emergency services.

### **OnStar Personal Calling Minimizes Distracted Driving**

As noted an important feature of the OnStar System in providing all of its telematics services including OnStar Personal Calling is that there is no handset. It is “hands-free” and “voice-activated” so that concerns about driver distraction can be minimized.

In recent months, the public policy concerns about distracted driving have increased. In 2002 and 2003, there were dozens of bills in over 35 state legislatures seeking to address concerns about the use of hand-held cell phones in vehicles. On June 28, 2001, New York became the first state to enact a ban on the use of hand-held cell phones while driving.<sup>6</sup> In January 2003, a bill was introduced in the U.S. Senate seeking to address the issue. In 2002, over 150 bills were introduced in 39 state legislatures to address concerns related to cell phone use and distracted driving. Among these are bills that would prohibit the use of hand-held phones including hand-held dialing.

OnStar believes there is a clear public interest in avoiding regulatory actions that might have the unintended effect of reducing drivers’ options - such as OnStar - to minimize the potential distraction associated with cellular/PCS calling while driving. The exhibited sensitivity of OPC customers to number assignments clearly indicates that treating OnStar Personal Calling differently than traditional, geographically sensitive CMRS would be create such a disincentive to the OnStar Personal Calling option.

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<sup>6</sup> Some municipalities have passed bans on the use of hand-held phones including for example: Brookline, MA; Santa Fe, NM; and York, PA.

### **OnStar's Implementation Reflects Sound Numbering Policy**

When an OnStar equipped vehicle is produced, it is initially loaded with a non-geographically sensitive number<sup>7</sup>. Subsequently, the OnStar Personal Calling equipped vehicle is loaded with a geographically sensitive number only after the vehicle is sold by a dealer to a specific customer and only where OnStar Personal Calling is available.<sup>8</sup> The numbers are recycled when the service is deactivated. Numbering resources are obtained and recycled in cooperation with Verizon Wireless.

### **The California Petition Is At Odds with Commission's Portability Requirements**

As a reseller, OnStar is required to comply with Commission requirements regarding pooling and portability. OnStar fails to see how it can comply with the upcoming portability regulations if California's petition is approved. Moreover, OnStar sees no reason why its subscribers should not benefit from the Commission's portability initiative.

### **OnStar Personal Calling Should Be Treated Similarly in Overlay Matters to Traditional Geographically Sensitive CMRS**

The *Third Report and Order* appears to promote a presumption that state petitions which seek to permanently segregate OnStar's telematics services from other geographically sensitive CMRS services and possibly even take back numbering resources would be authorized. OnStar believes that there is no basis for discriminating against OnStar Personal Calling or similar services in favor of hand-held units in numbering policy.

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<sup>7</sup> These non-geographically sensitive numbers are 500 numbers from the WIN4 network.

First, OnStar Personal Calling competes directly against hand-held geographically sensitive CMRS calling in the in-vehicle calling market.<sup>9</sup> Clearly, the Commission should adhere to its policy of seeking to avoid advantaging one competitor versus another. Second, as an embedded, hands-free, voice-activated system, OnStar reduces distracted driving calling issues compared to traditional hand-held units. As such, OnStar believes the evidence indicates that segregating OnStar Personal Calling from traditional, geographically sensitive CMRS calling would have the perverse effect of reducing the incentive for drivers to avail themselves of technology that reduces driver distraction while calling or receiving calls.

## **Conclusion**

OnStar believes that if the Commission deems the CPUC's petition sufficient to create the requested service overlays, there is no basis for treating OnStar Personal Calling differently than traditional, geographically sensitive cellular/PCS calling and opposes any effort of the CPUC to do so. OnStar Personal Calling service is an important in-vehicle competitor to traditional, handset-based CMRS calling. As such, (and as has been borne out by customer experience,) OnStar Personal Calling and similar in-vehicle wireless calling services are inherently geographically sensitive and should not be disadvantaged vis-à-vis traditional CMRS offerings. Moreover, OnStar Personal Calling offers potentially significant advantages in reducing distracted driving and the Commission

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<sup>8</sup> If a customer opts not to subscribe to OnStar in an area where OPC is available a geographically sensitive number is not loaded into the vehicle.

<sup>9</sup> This is a significant market. Gartner, Inc. estimates that nearly 50% of all cellular phone calls were placed while driving. Gartner's study also "found that 88% of respondents were 'somewhat concerned' or 'extremely concerned' about people using handheld cellular phones while driving". *Newsbytes* Oct. 1, 2001.

should not take actions that might have the effect of disincentivizing drivers from availing themselves of this technology. Nor should the Commission undermine its portability requirements by allowing the CPUC to treat OnStar's wireless calling service differently than traditional CMRS. Finally, OnStar does not believe that the CPUC's request for take back authority should be granted given the associated costs and consumer inconvenience.

Respectfully submitted,

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